



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

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Douglas W. Domenech
Secretary of Natural Resources

David K. Paylor
Director

(804) 698-4020
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MINUTES STATE WATER CONTROL BOARD

Monday, September 30, 2013
General Assembly Building, House Room C
Richmond, Virginia

Board Members Present:

Robert L. Dunn, Chair

William B. Bott

Joseph H. Nash

William A. Pruitt, Vice-Chair

Heather L. Wood

Thomas V. Van Auken

Board Members Absent:

Ben Grumbles

Department of Environmental Quality:

David K. Paylor, Director

Debra A. Harris

Cindy M. Berndt

Attorney General's Office:

David C. Grandis, Assistant Attorney General

- 1) The attached minutes summarize activities that took place at this Board Meeting.
- 2) The meeting was convened on Monday, September 30, 2013, at 9:32 a.m., recessed at 10:30 a.m.; reconvened at 10:42 a.m.; and adjourned at 11:55 a.m.

Approved Minute No. 1
Dec. 17, 2013



COMMONWEALTH of VIRGINIA

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PIEDMONT REGIONAL OFFICE

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David K. Paylor
Director

Michael P. Murphy
Regional Director

EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON SEPTEMBER 30, 2013

Minute No. 1 – Reissuance of Virginia Pollutant Discharge Elimination System (VPDES) Individual Permit No. VA0092274 – Rohoic Creek Wastewater Treatment Plant – Dinwiddie County

DEQ staff made a presentation for the reissuance of the Virginia Pollutant Discharge Elimination System (VPDES) individual permit for the Rohoic Creek Wastewater Treatment Plant (WWTP), VPDES permit number VA0092274. The Rohoic Creek WWTP is a proposed 4.0 million gallons per day (MGD) wastewater treatment plant which will treat domestic sewage from residences and commercial businesses in Dinwiddie County. Staff briefed the Board on the proposed permit and provided a summary of comments received during the public hearing and comment periods and staff responses to comments.

After staff's presentation, the Board heard from Dinwiddie County residents Howard Somers and June W. Crumpler.

Following the comments from the individuals noted above, the Board posed questions to DEQ staff. After the questions were answered, DEQ staff made the following recommendation:

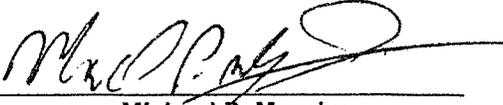
Based on the agency permit files, the comments received during the public comment period and any explanation of comments previously received during the public comment period, the staff recommended that the Board:

1. Find that:
 - a. The permit has been prepared in accordance with all applicable statutes, regulations and agency practices;
 - b. The effluent limits and conditions in the permit have been established to protect instream beneficial uses and fish and wildlife resources and to maintain all applicable water quality standards;
 - c. All public comments relevant to the permit have been considered.
2. Approve permit and conditions as presented; and
3. Authorize the Director to issue the permit as approved by the Board.

After hearing the staff recommendation, a motion was made and seconded to reissue the permit as presented by staff.

Board Decision

The Board, based on the Board book material and presentations at the meeting, voted unanimously in favor of staff's recommendation.


Michael P. Murphy
Director, Piedmont Regional Office



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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON SEPTEMBER 30, 2013

MINUTE NO. 2 - Minutes

The Board approved the minutes from the June 17, 2013 and August 26-27, 2013 meetings.


Cindy M. Berndt



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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON SEPTEMBER 30, 2013

MINUTE NO. 3 – General VPDES Permit for Discharges Resulting from the Application of Pesticides to Surface Waters of Virginia (9VAC25-800)

Prior to the meeting the Board was provided briefing materials including a memorandum summarizing the significant changes to the regulation, the regulation showing amendments, and the agency townhall background document. Elleanor Daub from the Office of VPDES Permits presented a summary of the changes made in response to public comment.

Board Decision

The Board voted unanimously to adopt the amendments to the General VPDES Permit for Discharges Resulting from the Application of Pesticides to Surface Waters of Virginia (9VAC25-800). The Board also voted to receive, consider and respond to petitions by any person at any time with respect to reconsideration or revision of this regulation, as provided by the Administrative Process Act.

A handwritten signature in cursive script that reads "Melanie D. Davenport".

Melanie D. Davenport
Water Division Director



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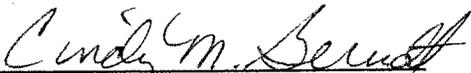
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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON SEPTEMBER 30, 2013

MINUTE NO. 4 – Amendments to the Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation (9VAC25-31): Mr. Gary E. Graham presented final exempt amendments to the Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation (9VAC25-31). He explained that the action was necessary to implement changes to federal regulations and reviewed the following substantive changes to the regulation required by 77 FR 44494, dated July 30, 2012:

1. Removal of language referring to permit requirements for CAFO facilities that "propose to discharge";
2. A clarification that CAFO owners and operators are prohibited from discharging unless the discharge is authorized by a VPDES permit;
3. A clarification that CAFO owners or operators are required to apply for either an individual VPDES permit or a VPDES general permit to get that discharge authorization;
4. A clarification that CAFO owners or operators are required to have that permit discharge authorization at the time of any discharge;
5. Removal of the permit exclusion for CAFOs if the owner or operator certifies to the board that the CAFO does not discharge, and the removal of all of the no discharge certification option requirements;
6. Removal of separate CAFO VPDES discharge permit deadlines; and
7. Removal of separate continuing permit coverage requirements for CAFOs and exceptions to those requirements.

Based on the Board book material, staff presentation and Board discussion, the Board unanimously adopted, as final regulation amendments, the amendments to the regulations as presented and authorized publication of the amendments.


Cindy M. Berndt



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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON SEPTEMBER 30, 2013

MINUTE NO. 5 – Fast-Track Rulemaking Proposal – Water Quality Management Planning Regulation Amendments (9 VAC 25-720)

John Kennedy, DEQ Office of Ecology & Infrastructure, made a presentation to the Board on proposed amendments to the Water Quality Management Planning Regulation, with a request to authorize use of the Fast-Track process for this rulemaking. Justification for use of the Fast-Track process is that the amendments are either:

- expected to be noncontroversial, as provided under the Administrative Process Act (§2.2-4012.1), or
- exempt actions (TMDL-related) under the Administrative Process Act (§ 2.2-4006, 4.c.: “Necessary to meet the requirements of federal law or regulations...”).

The proposed amendments were divided into several categories, with some of the affected facilities having multiple reasons for proposed changes:

- Delete obsolete footnotes.
- Revise TN and/or TP Waste Load Allocations for several facilities as the result of:
 - WQMP Regulation appeals/settlements.
 - EPA adoption of the Chesapeake Bay TMDL. These are exempt actions (TMDL-related) under the Administrative Process Act (§ 2.2-4006, 4.c.: “Necessary to meet the requirements of federal law or regulations...”).
- Make expression of WLAs consistent for all facilities served by combined sewer systems.
- Technical “housekeeping” revisions (e.g., changes to facility name, consolidation of dischargers into a regional system, revised discharge permit numbers).

Staff Recommendations and Board Action

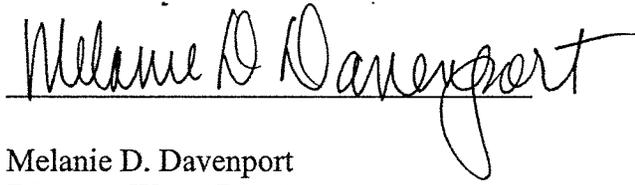
Following the presentation, staff recommended that the Board:

1. Promulgate the proposal for public comment using the fast-track process established in § 2.2-4012.1 of the Administrative Process Act for regulations expected to be non-controversial. The board's authorization should also be understood to constitute its adoption of the amendments at the end of the public comment period provided that (i) no objection to use of

the fast-track process is received from 10 or more persons, or any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, and (ii) the department does not find it necessary, based on public comments or for any other reason, to make any changes to the proposal.

2. Set an effective date 15 days after close of the 30-day public comment period provided (i) the proposal completes the fast-track rulemaking process as provided in § 2.2-4012.1 of the Administrative Process Act and (ii) the department does not find it necessary to make any changes to the proposal.

The staff recommendations were unanimously approved by the Board.

A handwritten signature in black ink that reads "Melanie D. Davenport". The signature is written in a cursive style and is positioned above a horizontal line.

Melanie D. Davenport
Director, Water Division



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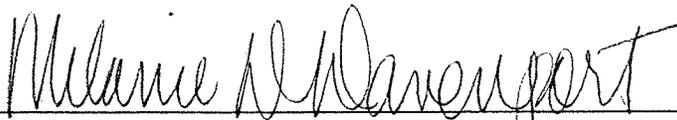
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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON SEPTEMBER 30, 2013

MINUTE NO. 6 – Stormwater Program Transfer

Melanie Davenport, Water Division Director, presented several remaining regulatory issues related to the July 1, 2013 transfer of stormwater programs and regulations to the State Water Control Board. Based on Board book materials and staff presentation, the Board unanimously:

1. Authorized proceeding with the regulatory action to adopt a new regulation on the Certification of Non-Point Source Nutrient Credits;
2. Withdrew the Soil and Water Conservation Board's Fast Track action for 4VAC50-60 – Procedures for Reviewing and Approving Design Specifications and Pollutant Removal Credits for Best Management Practices.



Melanie D. Davenport
Water Division Director



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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON SEPTEMBER 30, 2013

MINUTE NO. 7 – Report on Facilities in Significant Noncompliance

Kathleen O'Connell, Water Enforcement Program Manager, reported to the Board that there were no major facilities to be reported as being in significant noncompliance for the quarter ending March 31, 2013.

The Board accepted the report.

A handwritten signature in cursive script that reads "Kathleen F. O'Connell".

Kathleen F. O'Connell
Water Enforcement Program Manager
Division of Enforcement



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EXCERPT FROM THE PROCEEDINGS OF THE BOARD AT ITS MEETING ON SEPTEMBER 30, 2013

MINUTE 8 - Approval of Stormwater Local Assistance Fund Guidelines

Mr. Walter Gills of the Department's Clean Water Financing and Assistance Program made a presentation to the Board based on a staff memorandum dated September 25, 2013 pertaining to the development of guidelines for the new Stormwater Local Assistance Fund.

Mr. Gills began by explaining that the Virginia General Assembly had created a new Stormwater Local Assistance Fund (SLAF) to provide matching grants to local governments for the planning, design, and implementation of stormwater best management practices. The Board was directed to issue guidelines for the distribution of moneys from the Fund and the legislation required a 60-day public notice and comment period for the draft guidelines. DEQ staff had drafted a set of program guidelines and provided them to the public for their review and comment.

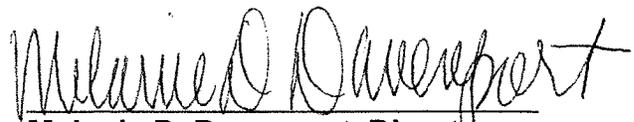
The public notice period started on July 19th and ran through September 18th. On August 14th, a Public Meeting was held at DEQ for the purpose of discussing the guidelines, providing clarification, and answering questions as well as to receive public input. Eight members of the public attended the public meeting and written comments were received from ten commenters by the September 18th deadline. Mr. Gills noted that the document entitled "Stormwater Local Assistance Fund Draft Guidance - Public Comments and DEQ Responses" provided a summary of all the comments received as well as DEQ's response to each and was included in the Board's materials package.

Walter summarized the numerous changes that were made to the guidelines based on the comments received including: the requirement for the posting of the authorized project priority list, establishment of a construction start date for project eligibility, and several revisions to the Program Requirements,

Phosphorous Reduction Calculation Methodology, and Grant Funding Priority Ranking. The Priority Ranking section was revised to rebalance the points for Pollution Reduction and Cost Effectiveness, clarify and provide more detailed breakout of the points for Impaired Waters and Readiness to Proceed, and add points for Fiscal Stress and a new Phase II (Small) MS4 category.

Mr. Gills noted that a number of the commenters had disagreed with the Guidelines' use of only total phosphorous in the proposed methodology for determining pollution reduction in the Priority Ranking system. They requested that other pollutants such as nitrogen, sediment, and bacteria also be included. He explained that total phosphorous had been chosen as the representative pollutant for stormwater runoff in Virginia and its use as a surrogate for other pollutants of concern in these Guidelines was consistent with the Virginia Stormwater Management Program Regulations and the Virginia Stormwater Management Handbook. The proposed methodology uses established total phosphorous removal efficiencies for a wide variety of stormwater best management practices and can be applied statewide, ensuring consistency between all applications submitted to DEQ. Attempting to include nitrogen, sediment, bacteria and/or other pollutants into the pollution reduction criteria (with their differing water quality impacts, units of measurement, less established removal efficiencies, etc.) would require a significant level of effort to accomplish and add substantial complexity to the evaluation process. Mr. Gills stated that DEQ would be willing to consider more comprehensive methodologies in the future as they are demonstrated to be applicable, sensible, and reliable but believed it was appropriate to move forward with total phosphorous only at this time.

Board Decision: After some questions and discussions, the Board voted unanimously to approve the Guidelines for the Stormwater Local Assistance Fund as revised. Further, the Board directed the Department to work towards development of a methodology for determining pollution reduction for other pollutants in the priority ranking system.


**Melanie D. Davenport, Director
Water Division**



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EXCERPT FROM THE PROCEEDINGS OF THE BOARD AT ITS MEETING ON SEPTEMBER 30, 2013

MINUTE 9- Development of FY 2014 Clean Water Revolving Loan Funding List

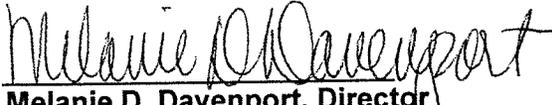
Mr. Walter Gills of the Department's Clean Water Financing and Assistance Program made a presentation to the Board based on a staff memorandum dated August 23, 2013 pertaining to the development of Virginia's Clean Water Revolving Loan Project Priority List and Intended Use Plan for FY 2014.

Mr. Gills began by referencing the attachments included with the staff's memorandum providing the Board with a description of the projects being considered and presenting the FY 2014 applicants in priority funding order. The 2014 application pool included 18 wastewater projects, 2 for land conservation and 1 stormwater project requesting a total of \$139.3 million. He noted that, due to a large amount of refinancings/prepayments this past year as well as a substantial carryover of funds from 2013, there would be sufficient funds available to address all of this year's projects.

Walter summarized the staff's activities in regards to the review of the applications in accordance with the program's policies and procedures, stating that all of the applications were determined to be eligible and provide direct benefits to water quality. With these considerations, the Board would have sufficient revenue available to fund the \$139.3 million for all the applications that were received.

Following discussions, the Board voted unanimously to target the following 21 applicants for loan assistance from available and anticipated funds and authorize the staff to present the Board's proposed FY 2014 loan project priority list for public review and comment:

	Applicant	Project Type	Requested Amount
1	Town of Front Royal	Wastewater	\$50,000,000
2	Town of Clifton Forge	Wastewater	\$750,000
3	City of Norfolk	Wastewater	\$10,000,000
4	Town of Saltville	Wastewater	\$971,290
5	Rivanna WSA	Wastewater	\$37,262,000
6	City of Waynesboro	Wastewater	\$1,658,989
7	Dickenson County PSA	Wastewater	\$499,400
8	Wise County PSA	Wastewater	\$1,038,234
9	Castlewood WSA	Wastewater	\$4,682,800
10	Washington County SA	Wastewater	\$884,895
11	Town of Stuart	Wastewater	\$1,280,600
12	Town of Boones Mill	Wastewater	\$856,295
13	Town of Independence	Wastewater	\$470,500
14	Town of Hillsville	Wastewater	\$149,000
15	Henry County PSA	Wastewater	\$1,773,200
16	Lee County PSA	Wastewater	\$1,032,785
17	Wythe County	Wastewater	\$2,103,600
18	Blacksburg-VPI SA	Wastewater	\$11,833,000
19	City of Waynesboro	Stormwater	\$1,664,750
20	The Trust for Public Land	Land Conservation	\$10,000,000
21	Meadowview Bio Res Station	Land Conservation	\$449,000
		Total =	\$139,358,338


 Melanie D. Davenport, Director
 Water Division



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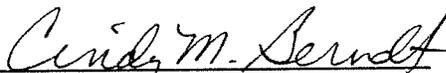
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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON SEPTEMBER 30, 2013

MINUTE NO. 10 – Public Forum

No one appeared during the public forum.


Cindy M. Berndt



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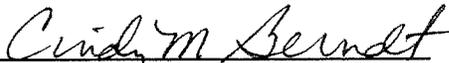
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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON SEPTEMBER 30, 2013

MINUTE NO. 11 – Celebrating Our Success

The Board received a report from Mr. David K. Paylor celebrating the success of the Department of Environmental Quality on its 20th Anniversary.


Cindy M. Berndt



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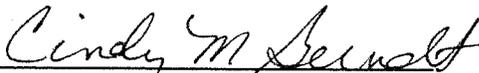
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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON SEPTEMBER 30, 2013

MINUTE NO. 12 – Future Meetings

The Board confirmed December 9-10, 2013, as the dates of their next meeting.


Cindy M. Berndt

[Note: After the meeting the date was changed to December 17, 2013]